



Docket No. 0905-0233P

Appl. No.: 09/549,044

Art Unit: 2612

Amendment dated August 16, 2004

Reply to Office Action of April 14, 2004

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REMARKS

Applicant appreciates the Examiner's thorough consideration and efforts with respect to present application. Claims 1-7 are currently pending in the instant application. Claims 1 and 3 have been amended and claims 4-7 have been added. Claims 1 and 3 are independent. Reconsideration of the present application is earnestly solicited.

Reasons for Entry of Amendment

As discussed in greater detail hereinafter, Applicant respectfully submits that the rejections under 35 U.S.C. §§ 102(b) and 103(a) are improper and should be withdrawn. Accordingly, the finality of the Final Office Action mailed on April 14, 2004 should be withdrawn.

In accordance with the requirements of 37 CFR 1.116, Applicants respectfully request entry and consideration of the foregoing amendments as they remove issues for appeal and place the current application in a condition for allowance.

Drawings

Applicant appreciates the Examiner's assistance with respect to the drawings. The previously accepted formal drawings have been objected to by

the Examiner due to the presence of potential informalities with FIG. 2. Without conceding the propriety of the Examiner's objection, but merely to expedite the prosecution of the present application, Applicant has amended FIG. 2 to include the proper term "frame number" as requested by the Examiner. One (1) replacement sheet of formal drawings is provided as an attachment to this Amendment. Accordingly, this objection has been obviated and/or rendered moot.

Specification

Applicant appreciates the Examiner's identification of acceptance of the amendments to the specification filed on March 8, 2004.

Claim Rejections Under 35 U.S.C. § 102

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kuba et al. (U.S. Patent No. 5,806,072). This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, Applicant respectfully submits that all of the rejections have been obviated and/or rendered moot. Without conceding the propriety of the Examiner's rejection, but merely to expedite the prosecution of the present application, Applicant has amended

claims 1 and 3 to clarify the claimed invention for the benefit of the Examiner. Accordingly, this rejection has been obviated and/or rendered moot.

For example, with respect to claim 1, Applicant submits that the prior art of record fails to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention, including the feature(s) of: *“an image data recording control device for recording on a first recording medium data representing the last frame number incremented by said frame number increment device and the image data outputted from said imaging device by the imaging under the image pickup theme set by said image pickup theme setting device with the data and the image data related to each other, wherein said frame number storage device retains said last frame number and said frame number increment device incrementally increases said assigned frame number starting from said last frame number if a new recording medium replaces said first recording medium.”* (Emphasis Added) Accordingly, this rejection should be withdrawn.

With respect to claim 3, Applicant submits that the prior art of record fails to teach or suggest each and every limitation of the unique combination of limitations of the claimed invention, including the feature(s) of: *“recording on a first recording medium data representing the incremented last frame number and the image data obtained by the imaging under the set image pickup theme with*

the data and the image data related to each other, and *replacing said recording medium with a new recording medium, wherein said last frame number is retained and said assigned frame number is incrementally increased starting from said last frame number if the new recording medium replaces said first recording medium.*" (Emphasis Added) Accordingly, this rejection should be withdrawn.

Applicant appreciates the Examiner's clarification of the rejections based upon the Kuba et al. reference. Without conceding the propriety of the Examiner's rejections, but merely to expedite the prosecution of the present application, Applicant has amended claims 1 and 3 to clarify the unique combination of limitations of the claimed invention. Specifically, Applicant has amended claims 1 and 3 to explicitly state those features that were implicitly claimed in the original claims. Accordingly, these rejections should be withdrawn.

Applicant submits that Kuba et al. does not teach or suggest the feature of the last frame number being stored so that any new frame numbers are incrementally increased upon replacement of the memory card, e.g., see pages 8-9 and 12-15 of the present application for a detailed description of this operation. Specifically, the frame number storage device retains the last frame number and the frame number increment device incrementally increases the

assigned frame number starting from the last frame number if a new recording medium replaces the first recording medium. In Kuba et al., although Kuba et al. appears to store a plurality of consecutive frame numbers, this reference does not appear to teach or suggest incrementally increasing frame numbers starting from a last frame number in the event that a new memory card (e.g., either a cleared memory card or another card) is inserted into the camera. Applicant submits that the Examiner's comments on pages 5-6 (paragraphs 11-12) support these distinctions clarified by Applicant's amendment.

With respect to the Kuba et al. reference, Applicant submits that a plurality of continuous frame numbers are stored in each directory of the image's file name. However, the Kuba et al. reference does not teach or suggest a frame number storage device that stores a last frame of a plurality of frame numbers which is assigned at the time of imaging for each of the image pickup themes. In the claimed invention, as further seen in FIG. 2 of the present application (supporting written description on pages 7-9 of the present application), only the last frame is assigned to each image pickup theme (i.e., flower corresponds to DSC.00010 and the next image pickup theme, sports, corresponds to DSC.00030). In contrast, as seen in FIGs. 53 and 60 of Kuba et al. (cited by the Examiner in conjunction with the description on col. 5 and col. 31 of Kuba et al, respectively), each frame number corresponds to a directory

entry (FIG. 53) and a plurality of continuous or consecutive frame numbers are stored in each directory as the image's file name (see FIGs. 60 and 61-#1, #2, #3, etc. in FIG. 61).

Further, as admitted by the Examiner, Kuba et al. fails to teach or suggest "an image pickup theme setting device which comprises and image pickup theme storage device for storing a plurality of image pickup themes and an image pickup theme selection device for selecting the image pickup them out of the image pickup themes stored in the image pickup them storage device." (see Office Action, paragraph 8). Therefore, Applicant submits that Kuba et al. cannot teach or suggest the feature of: "storing, for the set image pickup theme, a last frame number of a plurality of frame numbers assigned at the time of imaging." At most, Kuba et al. describes that it is possible to store images based on theme (i.e., "In the above subdirectories may be stored image files concerning pictures of scenes belonging to the same theme or those classified for pick-up periods or as to whether pictures are advancement or retreat storage pictures"). (see col. 15, lines 13-18 of Kuba et al.) However, Kuba et al. does not mention anything relating to storing a *last frame number* for each of the image pickup themes. Therefore, the Examiner's suggestion that this storage hierarchy is somehow inherent in Kuba et al. is respectfully traversed.

Claim Rejections Under 35 U.S.C. § 103

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuba et al. in view of Parulski et al. (U.S. Patent No. 5,633,678). This rejection is respectfully traversed.

In light of the foregoing amendments to the claims, Applicant respectfully submits that all of the rejections have been obviated and/or rendered moot. As discussed in greater detail hereinabove, the prior art of record fails to teach or suggest all of the limitations of even the independent claims. Accordingly, this rejection is improper and should be withdrawn.

With respect to the Parulski et al. reference, Applicant submits that this reference fails to teach or suggest the shortcomings identified hereinabove with respect to claims 1 and 3. Accordingly, this rejection should be withdrawn. Parulski et al. has been provided merely to show that designation or characterization of images in a digital camera according to theme has been known in the related art. However, neither of the references relied upon by the Examiner teach or suggest storing images according to theme and/or a frame number storage device that stores *the last frame number* of a plurality of frame numbers assigned at the time of imaging for *each of the image pickup themes*. Accordingly, this rejection is improper and should be withdrawn.

CONCLUSION

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but merely to show the state-of- the-art, no further comments are deemed necessary with respect thereto.

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

Applicant respectfully petitions under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$110.00** is attached hereto.

In the event there are any matters remaining in this application, the Examiner is invited to contact Matthew T. Shanley, Registration No. 47,074 at (703) 205-8000 in the Washington, D.C. area.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit

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Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 

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Attachments